

Practitioner's Docket: 2002DE435

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Franz Xaver SCHERL et al.

Serial No.: 10/533,474

Art Unit: 1612

Filed: November 21, 2005

Examiner: Holloman, N.

For: Pesticide Formulations Containing Aloxylated Amines

**RESPONSE TO NOTICE TO THE APPLICANT REGARDING A NON-COMPLIANT
OR NON-RESPONSIVE AMENDMENT**

Mail Stop:
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action mailed February 3, 2009, please enter the following amended election. This Election will replace the previously filed Election of November 3, 2008.

Election

The Office has restricted the present application under 35 U.S.C. § 121 and 35 U.S.C. § 372. Specifically, the Office states that the Application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The Office has defined the Groups as follows:

Group I, claim(s) 1-11 and 16, drawn to a composition.

Group II, claim(s) 12-15, drawn to a method for controlling weeds.

Furthermore, the Office states, "This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1". The Office has defined the Species as follows:

- 1) a single disclosed compound of formula (I);
- 2) a single disclosed composition form, i.e. concentrate, solid;
- and
- 3) if the composition contains an agrochemical salt, elect a single disclosed salt of claim 11.

The claims are deemed to correspond to the species listed above in the following manner: 1, 7-9 and 11-12.

For examination of this Application, Applicants elect:

Group I which is drawn to a composition, wherein, the substituents and parameters of the compound of formula (I) are defined as follows,

R^1 and R^2 are independently tallow fatty residue,

a and b are 0,

y = 2,

each of r, s, v and w is 80

the sum of r, s, v and w is 320

each of A^1O , A^2O , A^5O and A^6O is a mixture of EO and PO with 75 mol-% EO (ethylene oxide units) and 25 mol-% PO (propylene oxide units). For example, 60 groups of the 80 A^1O groups are EO and 20 groups of the 80 A^1O groups are PO.

The same applies to the other groups A^2O , A^5O and A^6O .

Support for the election that each of A^1O , A^2O , A^5O and A^6O is a mixture of EO and PO can e.g. be found on page 5, lines 24-29 of the Application. Furthermore, when A^1O is EO then A^1 is - C_2H_4 - and if A^1O is PO then A^1 is - C_3H_6 - and so on).

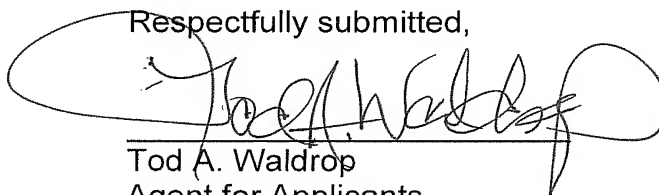
since a and b are zero, A^3 , A^4 , t and u have no meaning

the composition form is according to claim 8,
and if the composition comprises an agrochemical salt this salt is ammonium
sulfate,

without traverse or prejudice and reserve the right to resubmit a divisional application
on the non-elected species. The claims readable on these species are believed to be
Claims 1 - 6, 8, 10, 11 and 16.

It is respectfully submitted that, in view of the above remarks, the restriction
requirement is satisfied and the examination of this Application on the merits can
now proceed. If the Examiner has any remaining questions, please contact
Applicants' representative at the number listed below. Accordingly, favorable
reconsideration and an allowance of all pending claims are courteously solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tod A. Waldrop', is written over a horizontal line.

Tod A. Waldrop
Agent for Applicants
Registration No. 56,260

(CUSTOMER NUMBER 25,255)

Clariant Corporation
Industrial Property Department
4000 Monroe Road
Charlotte, North Carolina 28205
Phone: (704) 331-7732
Fax: (704) 331-7707